

## SECTION 14    VARIANCES

### 14.1    Authorization to Grant or Deny Variances -

The South Gallatin Planning and Zoning Commission may authorize a variance from the requirements of this ordinance when it can be shown that because of special and unusual circumstances related to a specific piece of property, strict application of the ordinance would cause an undue or unnecessary hardship. No variance shall be granted to allow the use or development of property for a purpose not authorized within the district in which the proposed development would be located. In granting a variance, the South Gallatin Planning and Zoning Commission may attach conditions it finds necessary to achieve compliance with the criteria of Section 14.2.

### 14.2    Criteria For Granting a Variance -

A variance may be granted only upon finding compliance with all of the following criteria.

14.2.1 Unique circumstances apply to the property that do not apply generally to other properties in the same district or vicinity and that result from lot size or shape, topography, or other circumstances over which the owners of property have had no control since enactment of this ordinance.

14.2.2 The variance is necessary for the preservation of a property right of the applicant that is substantially the same as that possessed by owners of other property in the same district.

14.2.3 The variance would not be materially and substantially detrimental to property in the same district or vicinity in which the property is located.

14.2.4 The variance requested will not be inconsistent with the intent and purpose of this ordinance and the South Gallatin Development Plan.

### 14.3    Procedure -

Written applications for a variance shall be filed with the Zoning Enforcement Agent. The appropriate fee, as adopted by the Zoning Commission, shall accompany each application. An application shall not be regarded as having been filed until the fee is paid.

The South Gallatin Planning and Zoning Commission shall cause to be made such investigation of facts bearing on the application as will provide necessary information to assure that the action on each such application is consistent with the intent and purpose of this Ordinance.

#### 14.4 Hearing and Notice -

There shall be a hearing for each application. Upon receipt of a complete application, a public hearing shall be held within sixty days. Testimony shall be taken by the South Gallatin Planning and Zoning Commission from persons interested in the application and from the Zoning Enforcement Agent.

Notice of hearing shall be published once in a newspaper of general circulation within the county at least fifteen (15) days prior to the hearing date. In addition, the Planning Office shall send a certified letter to record owners of property adjoining a proposed variance.

#### 14.5 Approval -

In approving an application for a variance, the South Gallatin Planning and Zoning Commission may designate any conditions that will secure protection for the public health, safety, and general welfare and shall find the request to meet the criteria set forth in Section 14.2. Any approval under this section shall be subject to any terms and conditions required by the South Gallatin Planning and Zoning Commission.

#### 14.6 Revocation and Modification of Variance -

A variance may be revoked or modified under the same

circumstances and procedures specified for the revocation or modification of a conditional use permit in Section 13.8.

## SECTION 15 LAND USE PERMITS

### 15.1 Procedures for Obtaining Land Use Permits -

15.1.1 No structure shall be built, moved or structurally altered until a land use permit has been issued under this Section.

15.1.2 Land use permits shall be issued only for uses in conformance with this Ordinance and the conditions and terms of a conditional use permit. No land use permit shall be issued until time for appeal on a conditional use permit or variance has elapsed and all appeals are finally decided.

15.1.3 Land use permits shall be in writing and shall be in the form specified by the South Gallatin Planning and Zoning Commission.

15.1.4 An application for a land use permit shall be filed with the Zoning Enforcement Agent. Land use permits may be issued by the Zoning Enforcement Agent.

15.1.5 If an application for a land use permit is denied by the Zoning Enforcement Agent, the applicant may apply for a variance or appeal to the South Gallatin Planning and Zoning Commission.

15.1.6 Where new sanitary facilities or the extension of the existing sanitary facilities are contemplated a land use permit shall not be issued until the applicant has first obtained authorization from the County Health Department or approval of sanitary facilities from the Montana Department of Health and Environmental Sciences, whichever is appropriate.

15.1.7 A land use permit is required for agricultural structures, for the purpose of enforcing property line setbacks.

### 15.2 Conformance -

No land use permit shall be issued unless in conformance with this Ordinance. Permits issued on the basis of plans and specifications approved by the Zoning Enforcement Agent only authorize the use, arrangement, and construction set forth in the approved plans and applications and no other use, arrangement, or construction. A use, arrangement, or construction at variance with that authorized shall be deemed a violation of this Ordinance.

### 15.3 Notice of Completion -

The applicant shall file with the Office of the Zoning Enforcement Agent a notice of completion when the applicant believes that all conditions attached to the application have been fully fulfilled and performed. The office of the Planning Director shall review the conditions attached to the application and the application itself to determine compliance. If compliance has been met, occupancy or use of the premises shall be allowed. If the conditions have not been fully met, occupancy or use of the premises shall be denied until the conditions are fully complied with.

#### 15.4 Expiration of Permits -

15.4.1 A land use permit shall expire if the building or work authorized by the permit has not commenced within twelve (12) months from the date of the issuance of the permit or if the building or work authorized by the permit is suspended or abandoned at any time after the work is commenced for a period of 12 months. A land use permit may be extended for a period of 12 months for good cause shown.

15.4.2 After a land use permit has expired no work can be recommenced until a new permit is obtained. The fee for a new permit shall be one-half (1/2) of the amount required for the original permit, provided that no changes have been made or will be made in the original plans and specifications for the work and that abandonment has not exceeded one year.

15.4.3 All exterior construction shall be completed within twelve (12) months of the date of issuance of the land use permit.

### SECTION 16 ADMINISTRATION

#### 16.1 Employees and Officers -

16.1.1 The South Gallatin Planning and Zoning Commission is authorized to appoint and hire employees and officers, including a Zoning Enforcement Agent, as is necessary to administer and enforce this Ordinance.

16.1.2 The Zoning Enforcement Agent may be an employee of Gallatin County, and if so, shall perform the duties under this Ordinance without remuneration in excess of the county salary.

#### 16.2 Duties of the Zoning Enforcement Agent -

16.2.1 The Zoning Enforcement Agent shall issue all land use permits and review all applications for conditional use permits, variances, rezoning requests and amendments to this Ordinance.

16.2.2 If the Zoning Enforcement Agent finds that this Ordinance, permit, or condition is being violated, the Agent shall give written notice to the person responsible for the violation, indicating the nature of the violation and requesting the remedial action to be taken to correct or abate the violation.

16.2.3 If the Zoning Enforcement Agent finds a violation the Agent may request the discontinuance of the illegal use of land, buildings, or structures; removal of illegal buildings, structures or additions, alterations, or structural changes; or discontinuance of any illegal work being done.

16.2.4 The Zoning Enforcement Agent may take any other action authorized by this Ordinance to enforce the provisions of this Ordinance or prevent the violation of its provisions.

16.3 Appeals from Decisions of Zoning Enforcement Agent -

16.3.1 An appeal from a decision of the Zoning Enforcement Agent may be made to the South Gallatin Planning and Zoning Commission.

16.3.2 An appeal shall be in writing and shall be filed with the Gallatin County Planning Office within ten (10) working days after the decision which is appealed.

16.3.3 A public hearing will be held on an appeal by the South Gallatin Planning and Zoning Commission if the matter appealed was required by this Ordinance to be decided after holding a public hearing.

16.3.4 All appeals of decisions made by the Zoning Enforcement Agent shall be decided within 60 days of the date they are filed or the decision of the Zoning Enforcement Agent shall be deemed overruled.

SECTION 17 FEES, CHARGES AND EXPENSES

17.1 No permit, district change, conditional use, variance or amendment shall be issued or approved until all costs, charges, fees or expenses required by this Ordinance are paid.

17.2 The South Gallatin Planning and Zoning Commission shall adopt a fee schedule for amendments, zoning changes, variances, conditional use permits and land use permits.

17.3 Fees, charges, and expenses are not refundable.

SECTION 18 COMPLAINTS AND INVESTIGATIONS

18.1 Any person may file a written complaint with the South Gallatin Planning and Zoning Commission or the Zoning Enforcement Agent alleging a violation of this Ordinance.

- 18.2 Upon receipt of a complaint, or upon its own initiative the Zoning Enforcement Agent shall record the complaint, immediately investigate, and take whatever action the Agent considers appropriate.

## SECTION 19 ENFORCEMENT AND PENALTIES

### 19.1 Criminal Penalty -

A violation of this Ordinance, a permit issued under this Ordinance, any condition imposed through the authority of this Ordinance, or any variance granted through this Ordinance shall constitute a misdemeanor. A person convicted of a violation under this Section shall be fined not more than \$500.00 or imprisoned in the county jail for a term not to exceed six (6) months, or both. Each day of violation shall constitute a separate offense and punishable as such.

### 19.2 Injunction -

Upon order of the South Gallatin Planning and Zoning Commission the Zoning Enforcement Agent, with the assistance of the County Attorney, may bring an action to enjoin violations of this Ordinance.

## SECTION 20 MINIMUM REQUIREMENTS

- 20.1 In the interpretation and application of this Ordinance, the provisions of the Ordinance shall be held to the minimum requirements adopted for the promotion of the health, safety and general welfare of the zoning district.
- 20.2 Wherever the requirements of this Ordinance are at variance with the requirements of any other lawfully adopted rule or regulation, the most restrictive, or that imposing the higher standards, shall govern.

## SECTION 21 ADVISORY COMMITTEE

- 21.1 Advisory Committee Created - there is hereby created a permanent South Gallatin Advisory Committee consisting of five members, appointed by the South Gallatin Planning and Zoning Commission. Members shall be freeholders in the South Gallatin Planning and Zoning District. This shall be a non remunerative committee.
- 21.2 Term - Advisory Committee members shall be appointed for two year staggered terms. Initially, two members shall be appointed for one year terms and three members shall be appointed for two year terms.

- 21.3        Role and Duties - All applications received by the Planning and Zoning Commission shall be forwarded to the Advisory Committee. The Advisory Committee shall consider and formulate a recommendation on all applications submitted to the Planning and Zoning Commission. The recommendation shall be advisory only and shall not be binding upon the Planning and Zoning Commission.

## SECTION 22    AMENDMENTS AND CHANGES

- 22.1    This ordinance may be amended whenever the public necessity and convenience and general welfare require such amendment, according to the procedure prescribed by law, and this Ordinance.
- 22.2    An amendment may be initiated as follows:
- a.        A land owner(s) of property effected by the proposed amendment may file a petition with the Zoning Enforcement Agent requesting an amendment. The petition shall be signed by the petitioning land owner(s).
  - b.        The Gallatin County Commission or the South Gallatin Planning and Zoning Commission may initiate an amendment through a resolution of intention.
- 22.3    An amendment shall not become effective until a hearing is held before the South Gallatin Planning and Zoning Commission. Notice of the hearing shall be given in a newspaper of general

circulation in the County not less than fifteen (15) days prior to the date of hearing.

#### SECTION 23    INVALIDATION

If any Section or part of this Ordinance or any attachments or amendments hereto is for any reason held to be invalid, the remaining portions of this Ordinance shall be valid and effective.

#### SECTION 24    ADOPTION

This Ordinance was adopted on February 10, 1994.

DATED THIS 10th day of February, 1994.

SOUTH GALLATIN PLANNING AND ZONING COMMISSION

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Shelley M. Cheney, Chairman

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Kris Dunn, Member

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Jane Jelinski, Member

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A. D. Pruitt, Member

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Stan Hughes, Member

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